United Nations S/AC.51/2012/4

Security Council

Distr.: General
21 December 2012

Original: English

Working Group on Children and Armed Conflict

Conclusions on the situation of children and armed conflict in Colombia

1. At its 33rd meeting, on 31 May 2012, the Working Group on Children and Armed Conflict examined the second report of the Secretary-General on children and armed conflict in Colombia (S/2012/171), covering the period from January 2009 to August 2011, which was introduced by the Special Representative of the Secretary-General for Children and Armed Conflict. A representative of the Government of Colombia to the United Nations also addressed the Working Group.

2. The members of the Working Group welcomed the submission of the report of the Secretary-General, in accordance with Security Council resolution 1612 (2005), and took note of the analysis and recommendations contained therein.

3. The members of the Working Group reaffirmed that it was important that parties to armed conflict comply with the relevant international obligations concerning the protection of children in armed conflict, including those contained in common article 3 of the Geneva Conventions of 1949 and Additional Protocol II thereto, the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

4. Members expressed deep concern at the continued violations and abuses committed against children by armed groups, primarily the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo (FARC-EP) and the Ejército de Liberación Nacional (ELN).

5. Members welcomed the steps taken by the Government of Colombia to ensure the protection of children, especially the design and implementation of the public policy for the prevention of recruitment and use of children by illegal armed groups (see CONPES 3673), the Early Warning System of the Office of the Ombudsman and the work of the Intersectoral Commission for the prevention of recruitment and use of children by illegal armed groups, and emphasized the importance of enhancing victim-centred approaches. Members urged further cooperation between the United Nations and the Government.

6. They encouraged the Government of Colombia to further enhance existing efforts to combat impunity for violations and abuses committed against children in armed conflict by the investigation of cases and the prosecution of perpetrators, and

Please recycle

to persist in making all efforts to reintegrate and rehabilitate children formerly associated with armed groups.

7. The Representative of Colombia made a statement. The members of the Working Group consented, on an exceptional basis, to the request of a member of the Working Group for its statement to be appended to the present conclusions, without prejudice to the consideration by the Working Group of other situations of children and armed conflict (see annex).

8. Further to the meeting, and subject to and consistent with applicable international law and relevant Security Council resolutions, including 1612 (2005), 1882 (2009) and 1998 (2011), the Working Group agreed to the direct action set out below.

Public statement issued by the Chair of the Working Group

9. The Working Group agreed to address a public statement to the parties to armed conflict in Colombia that were listed in annex II to the report of the Secretary-General on children and armed conflict (see A/66/782-S/2012/261), recalling that resolution 1612 (2005) does not seek to make any legal determination as to whether the situations referred to in the reports of the Secretary-General are or are not armed conflicts within the context of the Geneva Conventions and the Additional Protocols thereto, nor does it prejudge the legal status of the non-State parties involved in those situations:

(a) Calling their attention to the fact that the Security Council has received a report by the Secretary-General on children and armed conflict in Colombia (S/2012/171) detailing violations and abuses committed against children in the context of the armed conflict in Colombia, in contravention of applicable international law;

(b) Strongly condemning FARC-EP and ELN for the continued commission of all six grave violations against children in Colombia, involving the recruitment and use of children, killing and maiming, rape and other sexual violence, abductions, attacks against schools and/or hospitals and the denial of humanitarian access, calling upon them to immediately halt those violations and abuses and urging them to abide by international humanitarian law, to comply with Security Council resolutions on children and armed conflict and to implement the previous conclusions of the Working Group on Children and Armed Conflict in Colombia (S/AC.51/2010/3);

(c) Demanding that the armed groups:

(i) Immediately halt the recruitment and use of children and unconditionally release all children from their ranks;

(ii) Stop the practice of rape and other forms of sexual violence against children, in particular against girls associated with the armed groups;

(iii) Immediately cease actions that impede children's safe access to education and health services, including attacks as well as threats of attacks in contravention of applicable international law against schools and/or hospitals and protected persons related to them;

(iv) Allow unhindered and safe humanitarian access, and refrain from prohibiting the free movement of goods and people, and in this regard urging them to comply fully with their obligations under applicable international humanitarian law and to respect the work undertaken by members of humanitarian organizations that provide assistance and protection to children affected by the armed conflict;

(v) Stop the use of anti-personnel landmines and other explosive devices in violation of applicable international law, remove unexploded ordnance in order to avoid the killing and maiming of children and provide all necessary information to facilitate demining;

(vi) Immediately release all abducted children, facilitate their return to their families and communities and take all necessary measures to put an end to all abductions;

(d) Calling on the armed groups listed in annex II to the report of the Secretary-General on children and armed conflict (A/66/782-S/2012/261) to comply with the obligations applicable to them under international humanitarian law concerning the protection of children in armed conflict and reiterated in Security Council resolution 1612 (2005), and encouraging the United Nations and the Government of Colombia to work together to establish what further measures can be taken to address violations against children committed by those groups;

(e) Emphasizing that the preparation and full implementation of action plans in line with Security Council resolutions 1539 (2004), 1612 (2005), 1882 (2009) and 1998 (2011), and verified by the United Nations country task force on monitoring and reporting, is an important step for a party to the armed conflict to be delisted from the annexes to the annual report of the Secretary-General on children and armed conflict, deeply regretting the limited progress in effectively and systematically separating children from armed groups in Colombia, and stressing that any dialogue established under the framework of the monitoring and reporting mechanism in Colombia by United Nations entities with armed groups in order to ensure the protection for children must be conducted in close consultation and with the consent of the Government of Colombia, in line with the terms of reference for the United Nations country task force on monitoring and reporting for Colombia.

Recommendations to the Security Council

10. The Working Group made the following recommendations to the Security Council:

Letter to the Government of Colombia

(a) *Recalling* the previous conclusions of the Working Group on children and armed conflict in Colombia (S/AC.51/2010/3);

(b) *Commending* the progress made by the Government in preventing and responding to the recruitment and use of children in contravention of applicable international law, including through the development of a framework document on the prevention of recruitment and use of children by illegal armed groups (CONPES 3673), and urging it to continue strengthening the coordination, impact and sustainability of its child protection initiatives, in particular through the

comprehensive implementation of that policy with regard to children affected by the armed conflict, including Afro-Colombian and indigenous children;

(c) *Welcoming* the activities undertaken by the Government to respond to the needs of children separated from armed groups, including through efforts to foster family reunification, protection and care and reintegration support for all children, and encouraging it to further strengthen those efforts by ensuring that affected children are treated primarily as victims, not only as perpetrators;

(d) *Noting* the efforts undertaken by the Government to fight impunity, underlining the importance of bringing to justice perpetrators of all violations and abuses against children in armed conflict, urging the Government to further enhance its efforts in this regard, including through timely, rigorous and systematic investigation and prosecution, and encouraging the effective protection of child victims and witnesses and the provision of reparations, as appropriate;

(e) *Commending* the efforts by the Government to adopt and put in place a zero-tolerance policy on sexual violence and exploitation, and to ensure that the Colombian military forces implement it, noting that strenuous efforts should be made to prevent those acts in the context of the armed conflict, and that, when they occur, timely measures must be taken to investigate, prosecute and punish those found guilty, while protecting victims;

(f) *Noting with appreciation* that the legislation in force in Colombia prohibits the use of children for military intelligence and requires that children separated from armed groups be handed over to civilian child protection services no later than 36 hours from the moment they enter State custody, and calling upon the Government to ensure strict compliance by the Colombian military forces with those provisions;

(g) *Acknowledging* that the legislation in force in Colombia prohibits the involvement of children in civil-military activities, and urging the Government to continue to ensure that Colombian military forces comply fully with that legislation and avoid the involvement of children in any civil-military activities;

(h) *Inviting* the Government to continue to ensure that the relevant State authorities respond in an adequate and timely manner to the risk reports issued by the Early Warning System of the Office of the Ombudsman of Colombia so as to prevent serious violations against children in the context of the armed conflict;

(i) *Welcoming* the integrated mine action programme carried out by the Government aiming at the provision of appropriate attention to child victims and mine risk education, especially for children and their families in the most affected areas, stressing the importance of enhancing existing efforts in that area, and further encouraging the Government to continue to ensure that humanitarian demining operations are conducted in accordance with applicable international law;

(j) *Urging* the Government to enhance efforts within the framework of its comprehensive approach to the prevention of child displacement and protection of displaced children in the context of armed conflict through the implementation of programmes that address the causes of displacement, such as the programme "Mis derechos primero";

(k) *Calling upon* the Government to continue to comply with its obligations under the Convention on the Rights of the Child, and in this regard recalling the

relevant recommendations contained in the previous conclusions by the Working Group on Colombia (S/AC.51/2010/3);

(l) *Stressing* the importance of regular exchanges of information between the Government and the Co-Chairs of the monitoring and reporting mechanism as well as continued communication between the Government and the Special Representative of the Secretary-General for Children and Armed Conflict in order to prevent violations against children in armed conflict, to ensure effective and timely responses to violations committed and to address capacity-building support by the United Nations system;

(m) *Considering* that the best way to protect children is through peace, and therefore urging the Government to strive to reach a peaceful resolution to the conflict and to include provisions specifically aimed at the protection of children in any future peace agreement.

Direct action by the Working Group

11. The Working Group also agreed that letters should be addressed from the Chair:

To the World Bank and donors

Inviting the donor community to provide additional support to national programmes and initiatives aimed at protecting children affected by the armed conflict, including prevention activities, and to support the child protection efforts and initiatives of United Nations agencies and non-governmental organizations related to strengthening national capacity-building and pertinent national institutions and their programmes.

Annex*

Statement by Fernando Alzate, Deputy Permanent Representative of Colombia to the United Nations

Presentation of the report of the Secretary-General on children and armed conflict in Colombia to the Working Group on Children and Armed Conflict (S/2012/171)

New York, 31 May 2012

Mr. Chairman,

Members of the Security Council Working Group,

Madam Special Representative of the Secretary-General for Children and Armed Conflict,

Director of Emergency Programs of the United Nations Children's Fund.

I would like to thank Ambassador Peter Wittig, in his capacity as Chairman of the Security Council Working Group, for convening this meeting and for giving us the opportunity to present the comments of the Government of Colombia to the report on children and armed conflict in Colombia (S/2012/171). In addition to this statement, Colombia will deliver a document with its observations on specific aspects of this report and would kindly request the Chair to circulate it among the members of the Working Group.

The Special Representative of the Secretary-General made a presentation of the report. In this context, we value the recognition made to the robust public policy framework existing in Colombia aimed at guaranteeing children the enjoyment of their rights and achieve their full development, as reflected in the National Development Plan of President Juan Manuel Santos.

Mr. Chairman,

Our Public Policy for the Prevention of Recruitment and Use of Children by illegal armed groups and criminal bands (CONPES 3673 of 2010) starts from the premise that the more guarantees, effective enjoyment and protective environments of their rights, the lower the risk of recruitment and use of children by the referred groups.

The set of programmes, projects and strategies executed at different Government levels strive to protect the living space of children; to counter forms of violence and exploitation exerted in their families, communities and society; to guarantee an appropriate, assertive, pertinent and efficient institutional offer at the national and territorial level; and to promote their recognition as bearers of rights in the referred environments.

We reaffirm the commitment of the Government of Colombia in achieving a decisive impact with permanent solutions to confront the challenges posed by our political and security situation, through the consolidation of the rule of law in all the national territory. This imperative corresponds to our constitutional and legal mandate and it is the resolute will of the Government and the people of Colombia

* Issued without formal editing and in the language of submission only.

not to cease in the fulfillment of this responsibility. The accompaniment of robust security strategies is essential to reach all corners of the national territory, and in particular remote rural areas, in order to deliver public services in areas such as health, justice and education, among others.

In addition, the Ministry of Foreign Affairs established the programme "Comprehensive prevention plan: children with opportunities", aimed at preventing and fighting against child recruitment. The objective is to generate protective environments and spaces that guarantee the development of children in a safe manner, by supporting educational, sports and cultural initiatives in their free time, contributing in this manner to the prevention of child recruitment by illegal armed groups in the municipalities with the highest risk of recruitment. To mobilize resources, contacts have been made with private-sector companies interested in pursuing social responsibility programmes. We also work with partners that have taken special interest in this initiative, some of which are members of this Council.

Mr. Chairman,

Colombia voluntarily accepted to participate in the monitoring and reporting mechanism with the purpose of promoting lasting solutions to the problems that children face because of the internal armed conflict.

In our interactions on the question of children and armed conflict, we have put special emphasis on the fact that when considering the situation in Colombia the members of the Working Group and the United Nations balance their analysis with objectivity, reasonableness and historic and context perspectives. We believe in national capacity-building as the axis of international cooperation, and we would like to see that the mechanism that we accepted voluntarily would deepen efforts and actions in that sense.

Our experience shows that an approach focused exclusively in naming and shaming, in United Nations parlance, is a one-size-fits-all mechanism that does not contribute to the objective and central motivation of the national Government to protect children against the abuses perpetrated by illegal armed groups.

We consider it convenient to have a more fluid and constant relation with the task force and to be able to share substantive information that will allow us to clarify situations or deepen the efficacy of the Government actions. For the above reasons, it is indispensable that the information on situations of risk or complaints be communicated to the Government as soon as possible, in order to take the necessary measures to guarantee the protection of children. In this the Government's will is clear, manifest and decisive.

The best interest of the child demands that cooperation be enhanced as well as the capacity to respond by the State institutions in favor of children. This cannot be achieved if the flow of information is limited under considerations of confidentiality and neutrality.

We have also insisted that it is just natural that the Government can verify through its participation in the task force that the data contained in the report of the Secretary-General on the situation of children and armed conflict in Colombia be timely, objective, precise and reliable, as provided for in Security Council resolution 1612 (2005) and related resolutions.

We trust that the members of the Working Group shall take these considerations into account in due course.

Mr. Chairman,

Concerning the analysis presented in the report on the political and security situation in the country, it is important to make a precision that Colombia, according to its international commitments, continues to fight decisively the complex challenges posed by the world drug problem. Even though this problem and other forms of crime are perpetrated by illegal armed groups such as FARC and ELN, it is important to underline that other criminal bands involved in the illicit drug business should not be subject to consideration under the framework of resolution 1612 (2005).

The framework of the monitoring and reporting mechanism goes beyond the mandates of the Security Council when it starts documenting actions perpetrated by organizations characterized as criminal bands under the Palermo Convention on Transnational Organized Crime. These bands are not parties to the armed conflict, according to the Geneva Conventions, its Additional Protocols thereto and other relevant instruments of the international humanitarian law. As acknowledged by the Secretary-General of the Organization of American States, the objective of these bands is purely economic and not counterinsurgent.

Should the framework of resolution 1612 (2005) be extended to organized criminal bands, the monitoring and reporting mechanism would have to be applied in a universal manner in countless situations and geographic areas around the world.

Demanding that the instruments created by the United Nations act in strict compliance with their mandate does not limit the scope of protection of the rights that we are bound to defend as a country and as a Government, nor does it diminish our clear will to do it and to defend the rights of the children. On the contrary, this demand seeks to preserve the credibility of the Organization, the trust of its members in it, the coordination of multilateral actions, so as to avoid duplicity of functions, and international legality.

The Government of Colombia is committed to the investigation and punishment of those responsible for criminal actions conducted by these bands against children in Colombia.

Mr. Chairman,

From the Secretary-General's report on children and armed conflict in Colombia it is clear that the challenges that Colombia continues to face in this area originate in the persistent violations perpetrated by FARC and ELN. We have been reminded of this today in Mrs. Coomaraswamy's presentation.

For FARC and ELN, the grave violations included in the report are simply strategies of war: the recruitment and use of children; the attacks on towns, schools and hospitals; the use of anti-personnel mines that kill and maim; the threats against teachers and medical staff; the sexual violence, in particular in the case of girls recruited; the abductions. Concerning this latter violation, we take note that despite the fact that the report documents abductions by the parties listed in annex II, it does not make any recommendation in this regard.

The report also mentions cases in which the actions of the public force when combating illegal armed groups have resulted in situations of risk or in the death of children. These are regrettable cases that our security forces try to avoid to the maximum extent. Our responsibility as a Government is to reach, with the State institutions, all the national territory to consolidate the rule of law and to guarantee the human rights of all Colombians with emphasis on the protection of children and youth against illegal recruitment.

It is fundamental for Colombia that the United Nations and the members of the Working Group have the certainty that the Government keeps a zero-tolerance policy to human rights violations. The violations allegedly perpetrated by members of the public force are isolated and individual. They do not represent a policy of the State and do not respond to military instructions.

The existence of institutions that are more robust every day has allowed us to advance in the realizations of the rights of all citizens. This includes the strict application of the mechanisms to punish those who from the State could incur in individual actions that affect those rights.

Mr. Chairman,

As mentioned before, Colombia voluntarily accepted the monitoring and reporting mechanism. Some time ago, the Government agreed with the Office of the Special Representative of the Secretary-General on the terms of reference for the implementation of the mechanism in all the national territory, which include specific conditions for the establishment of dialogues between the United Nations and illegal armed groups.

We reiterate that signing plans of actions with the parties included in the annexes is an option that is clearly inadequate for the situation in Colombia and that any contact by the United Nations with FARC or ELN may only take place with the authorization of the national Government. This condition originates in the need to centralize any peace negotiation initiative, due to previous experiences; and it is based in the principle of national sovereignty, which being comprised in the Charter of the United Nations, must be respected in the implementation of the monitoring and reporting mechanism.

Governments are the ones who best know the circumstances on the ground, the conflict, its history, its development and variables. Thus, they must be taken into account when pursuing alternatives and ways to put an end to the grave violations subject to the monitoring and reporting by the mechanism.

This mechanism should consult the positions of the Governments and have them participate in its internal implementation, through an efficient consultation process, to adopt timely actions in favor of children and youth with the purpose of strengthening the institutional capacity of the State to tackle these problems.

Mr. Chairman,

The observations and recommendations contained in the report are being analysed and studied by the different agencies concerned with the protection and rehabilitation of children and youth. In applying the recommendations of the Working Group we will take into account those that are adequate to the national context and that contribute to improve the situation of children and adolescents affected by armed conflict.

The report highlights some of the activities of the Intersectoral Commission for the Prevention of Recruitment and Use of Children. This Commission, in particular its technical secretariat, has received valuable support by the United Nations, which we appreciate.

One of the recommendations of the report emphasizes that the separation of children from armed groups should be a matter of utmost priority in any dialogue with illegal armed groups. In this respect, I would like to reiterate, as stated by the President of the Republic, Dr. Juan Manuel Santos, and as it is documented in the report under consideration, that a precondition for any eventual peace process with FARC and/or ELN is that these groups abandon the recruitment of children and that they release the children in their ranks.

Colombia values highly the interaction with the representatives of the members of the Working Group and we appreciate the opportunity that we have been afforded to exchange ideas and to present our views on this topic, which is a priority for the national Government.

Everyone here wants to put an end to the recruitment of children and wants to strengthen the existing capacities to protect children and adolescents affected by armed conflict. Colombia believes that the best way to achieve this is through cooperation and remains committed to this work, within the framework of the principles and purposes of the Charter of the United Nations, ratified by all of us.

Thank you.